

**Practitioner's Docket No. U 013763-7**

*PATENT*

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

**In re application of: Ilan LEVIN, et al**

Serial No.: 10/009,069      Group No.:

Serial No. 16,009,001 Filed: December 7, 2001

For: A MOLECULAR MARKER BASED ON THE ERK2 (FRUCTOKINASE 2) GENE

## Box Sequence

**Assistant Commissioner for Patents  
Washington, D.C. 20231**

**UBMISSION OF "SEQUENCE LISTING," COMPUTER READABLE COPY,  
AND/OR AMENDMENT PERTAINING THERETO  
FOR BIOTECHNOLOGY INVENTION CONTAINING NUCLEOTIDE  
AND/OR AMINO ACID SEQUENCE**

**CERTIFICATION UNDER 37 C.F.R. 1.8(a) and 1.10\***

*(When using Express Mail, the Express Mail label number is **mandatory**;  
Express Mail certification is optional.)*

I hereby certify that, on the date shown below, this correspondence is being:

## MAILING

deposited with the United States Postal Service in an envelope addressed to the Assistant Commissioner for Patents, Washington, D.C. 20231.

37 C.F.R. 1.8(a)

37 C.F.R. 1.10\*

with sufficient postage as first class mail.

as "Express Mail Post Office to Address"  
Mailing Label No. EV 011021899 US  
**(mandatory)**

## TRANSMISSION

transmitted by facsimile to the Patent and Trademark Office.

Ibis Carille  
Signature

Date: April 26, 2002

**IBIS CARRILLO**

**\*WARNING:** Each paper or fee filed by "Express Mail" **must** have the number of the "Express Mail" mailing label placed thereon prior to mailing. 37 C.F.R. 1.10(b).

*“Since the filing of correspondence under § 1.10 without the Express Mail mailing label thereon is an oversight that can be avoided by the exercise of reasonable care, requests for waiver of this requirement will not be granted on petition.” Notice of Oct. 24, 1996, 60 Fed. Reg. 56,439, at 56,442.*

(check and complete this item, if applicable)

1.  This replies to the Office Letter DATED February 25, 2002.

*NOTE: If these papers are filed before the office letter issues, adequate identification of the original papers should be made, e.g., in addition to the name of the inventor and title of invention, the filing date based on the "Express Mail" procedure, the serial number from the return post card or the attorney's docket number added.*

A copy of the Office Letter is enclosed.

#### **IDENTIFICATION OF PERSON MAKING STATEMENT**

2. I, CLIFFORD J. MASS  
(type or print name of person signing below)

state the following:

#### **ITEMS BEING SUBMITTED**

3. Submitted herewith is/are

(check each item as applicable)

- A.  "Sequence Listing(s)" for the nucleotide and/or amino acid sequence(s) in this application. Each "Sequence Listing" is assigned a separate identifier as required in 37 C.F.R. § 1.821(c) and 37 C.F.R. §§ 1.822 and 1.823.
- B.  An amendment to the description and/or claims, wherein reference is made to the sequence by use of the assigned identifier, as required in 37 C.F.R. § 1.821(d).
- C.  A copy of each "Sequence Listing" submitted for this application in computer readable form, in accordance with the requirements of 37 C.F.R. §§ 1.821(e) and 1.824.
- D.  Please transfer to this application, in accordance with 37 C.F.R. § 1.821(e), the computer readable copy(ies) from applicant's other application identified as follows:

*NOTE: "If the computer readable form of a new application is to be identical with the computer readable form of another application of the applicant on file in the Office, reference may be made to the other application and computer readable form in lieu of filing a duplicate computer readable form in the new application. The new application shall be accompanied by a letter making such reference to the other application and computer readable form, both of which shall be completely identified." 37 C.F.R. 1.821(e).*

In re application of:

Serial No.:

Filed:

For:

Group No.:

Examiner:

The Computer readable form(s) of applicant's other application corresponds to the "Sequence Identifier(s)" of this application or [ ] compare as follows:

Computer Readable Form

"Sequence Identifier"

(other applications)

(this application)

E.  A statement that the content of each "Sequence Listing" submitted and each computer readable copy are the same, as required in 37 C.F.R. § 1.821(f).

[ ] Because the statement is not made by a person registered to practice before the Office, the Statement is verified as required in 37 C.F.R. § 1.821(b).

F.  Because this submission is made in fulfilling the requirement under 37 C.F.R. § 1.821(g), a statement that the submission includes no new matter.

[ ] Because the statement is not made by a person registered to practice before the Office, the statement is verified, as required in 37 C.F.R. § 1.821(g).

**STATEMENT THAT "SEQUENCE LISTING"  
AND COMPUTER READABLE COPY ARE THE SAME  
AND/OR THAT PAPERS SUBMITTED INCLUDES NO NEW MATTER**

4. I hereby state:

*(complete applicable item A and/or B)*

A.  Each computer readable form submitted in this application, including those forms requested to be transferred from applicant's other application, is the same as the "Sequence Listing" to which it is indicated to relate.

B.  All papers accompanying this submission, or for which a request for transfer from applicants' other application, introduce no new matter.

## STATUS

5. Applicant is

a small entity. A Written Assertion:

is attached.

was already filed.

other than a small entity.

## EXTENSION OF TERM

6.

**NOTE:** 37 C.F.R. § 1.704(b)"... an applicant shall be deemed to have failed to engage in reasonable efforts to conclude processing or examination of an application for the cumulative total of any periods of time in excess of three months that are taken to reply to any notice or action by the Office making any rejection, objection, argument, or other request, measuring such three-month period from the date the notice or action was mailed or given to the applicant, in which case the period of adjustment set forth in § 1.703 shall be reduced by the number of days, if any, beginning on the day after the date that is three months after the date of mailing or transmission of the Office communication notifying the applicant of the rejection, objection, argument, or other request and ending on the date the reply was filed. The period, or shortened statutory period, for reply that is set in the Office action or notice has no effect on the three-month period set forth in this paragraph."

**NOTE:** "Extension of Time in Patent Cases (Supplement Amendments) If a timely and complete response has been filed after a Non-Final Office Action, an extension of time is not required to permit filing and/or entry of an additional amendment after expiration of the shortened statutory period.

If a timely response has been filed after a Final Office Action, an extension of time is required to permit filing and/or entry of a Notice of Appeal or filing and/or entry of an additional amendment after expiration of the shortened statutory period unless the timely-filed response placed the application in condition for allowance. Of course, if a Notice of Appeal has been filed within the shortened statutory period, the period has ceased to run." Notice of Dec. 10, 1985 (1061 O.G. 34-35).

**NOTE:** See 37 C.F.R. 1.645 for extensions of time in interference proceedings and 37 C.F.R. 1.550(c) for extensions of time in reexamination proceedings.

7. The proceedings herein are for a patent application and the provisions of 37 C.F.R. 1.136 apply.

*(complete (a) or (b) as applicable)*

(a)  Applicant petitions for an extension of time under 37 C.F.R. 1.136 (fees: 37 C.F.R. 1.17(a)(1)-(4)) for the total number of months checked below:

Extension <u>(months)</u>	Fee for other than <u>small entity</u>	Fee for <u>small entity</u>
<input checked="" type="checkbox"/> one month	\$110.00	\$ 55.00
<input type="checkbox"/> two months	\$400.00	\$ 200.00
<input type="checkbox"/> three months	\$920.00	\$ 460.00
<input type="checkbox"/> four months	\$1,440.00	\$ 720.00

**Fee \$ 55.00**

If an additional extension of time is required, please consider this a petition therefor.

*(check and complete the next item, if applicable)*

An extension for \_\_\_\_\_ months has already been secured, and the fee paid therefor of \$ \_\_\_\_\_ is deducted from the total fee due for the total months of extension now requested.

Extension fee due with this request Being paid concurrently with the Notice of Missing Parts enclosed herewith

**OR**

(b)  Applicant believes that no extension of term is required. However, this conditional petition is being made to provide for the possibility that applicant has inadvertently overlooked the need for a petition and fee for extension of time.

**FEE PAYMENT**

8.  Attached is a check in the sum of \$ \_\_\_\_\_.

Charge Account No. \_\_\_\_\_ the sum of \$ \_\_\_\_\_.  
A duplicate of this transmittal is attached.

**FEE DEFICIENCY**

9.

*NOTE: If there is a fee deficiency and there is no authorization to charge an account, additional fees are necessary to cover the additional time consumed in making up the original deficiency. If the maximum, six-month period has expired before the deficiency is noted and corrected, the application is held abandoned. In those instances where authorization to charge is included, processing delays are encountered in returning the papers to the PTO finance Branch in order to apply these charges prior to action on the cases. Authorization to charge the deposit account for any fee deficiency should be checked. See the Notice of April 7, 1986, 1065 O.G. 31-33.*

10.  If any additional extension and/or fee is required, charge Account No. 12-0425.

**SIGNATURE(s)**

CLIFFORD J. MASS  
(type or print name of person signing statement)

Signature

Date \_\_\_\_\_

c/o Ladas & Parry  
P.O. Address of Signatory

26 West 61st Street  
New York, NY 10023

(If applicable)

Tel. No.: (212) 708-1890  
Reg. No. 30,086

Inventor  
 Assignee of complete interest  
 Person authorized to sign on behalf of assignee  
 Practitioner of record  
 Filed under Rule 34(a)  
 Registration No. \_\_\_\_\_  
 Other \_\_\_\_\_

(specify identity of person signing)

(complete the following, if applicable)

(type name of assignee)

Address of assignee

\_\_\_\_\_  
Title of person authorized to sign on behalf of assignee

A "STATEMENT UNDER 37 C.F.R. 3.73(b)" is attached.

Assignment recorded in PTO on \_\_\_\_\_  
Reel \_\_\_\_\_ Frame \_\_\_\_\_

**SIGNATURE OF PRACTITIONER**

Reg. No.

(type or print name of practitioner)

Tel. No.: ( )

\_\_\_\_\_  
P.O. Address

Customer No.:

\_\_\_\_\_  
c/o Ladas & Parry  
26 West 61<sup>st</sup> Street  
New York, N.Y. 10023